

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 13-59673

WEAAM NOCHA,

Chapter 11

Debtor.

Judge Thomas J. Tucker

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ORDER REQUIRING DEBTOR TO AMEND DISCLOSURE STATEMENT

On April 3, 2014, Debtor filed a plan and disclosure statement, in a document entitled “1st Amended Combined Plan and Disclosure Statement of Weaam Nocha” (Docket # 81). The Court cannot yet grant preliminary approval of the disclosure statement contained within this document (“Disclosure Statement”). The Court notes the following problems, which Debtor must correct.

First, in Paragraph A of the Disclosure Statement on page 2, Debtor states: “Historically, the Debtor has received approximately \$8,000 per month from Basrah by way of salary, loans, dividends and/or rent payments.” Debtor must specify how much of the \$8,000.00 was salary, how much was a loan, how much was a dividend, and how much was a rent payment. Debtor must also state whether he receives any fringe benefits from Basrah.

Second, on page 20 of the Plan, under each of the Group nos. 1-3 listed on the top of the page, Debtor must state separately, with regard to each group: (1) an estimate of the amount of each claim in the group; and (2) the treatment regarding each group (*e.g.*, Group 1 consisting of the claims of Debtor’s attorneys totaling approximately \$10,000.00 to \$15,000.00 to be paid . . .¹; Group 2 consisting of the quarterly fees for the United States Trustee . . . ; Group 3 consisting

¹ Currently, Debtor states a treatment for Group 1 Administrative Creditors in “Article III - Administrative Creditors” on page 20 of the Plan (“paid in full on or before the Effective Date”). Debtor

of claims entitled to priority under 11 U.S.C. § 507(a)(8), including a claim of the Internal Revenue Service in the amount of \$3,666.28 and the State of Michigan Department of Treasury in the amount of \$654.78 to be paid . . .”).

Third, the Court’s Order filed March 8, 2014 (Docket # 69) required Debtor to treat each secured creditor in a separate class. On page 21 of the Plan, Debtor states, in relevant part, that: “A class of secured debt cannot generally consist of more than one creditor. As in the usual case, each creditor has a lien of a different priority, on different assets or containing different terms. Accordingly, in most circumstances, each secured creditor will be listed in a separate class.” Despite saying this, Debtor lumps all secured creditors in “Voting Class I” in Article IV.A on pages 20-22 of the Plan. But then Debtor does appear to treat each secured claim in a separate class, in the table on page 24 of the Plan. Debtor must move the information regarding each secured claim on pages 20-22 of the Plan into the appropriate class on the table on page 24 of the Plan. And with regard to each secured creditor, Debtor must state the amount of the claim without regard to the value of the collateral; the property securing the claim (if real estate, the full address, including city and state); the fair market value of the property securing the claim; whether any portion of the claim is unsecured; and if so, whether the secured creditor will have an unsecured deficiency claim, to be included and treated in the class of general unsecured claims; and if so, the amount of such claim. If more than one secured creditor has a lien on property, Debtor must state the priority of each secured creditor (*i.e.*, which creditor has a first priority lien and which creditor has a second priority lien).

also states a treatment for administrative claimants in Paragraph IV.B on page 23 of the Plan which is different (“within ten (10) days of confirmation, unless the administrative claimants agree to different treatment”). Debtor must correct this inconsistency.

Fourth, on page 24 of the Plan, Debtor treats the priority claims of the Internal Revenue Service and the State of Michigan in Class 3. “[P]riority tax claims . . . are not supposed to be classified in a Chapter 11 plan for voting or other purposes.” *In re Northwest Timberline Enterprises, Inc.*, 348 B.R. 412, 422 (Bankr. N.D. Tex. 2006)(citing 11 U.S.C. §§ 1123(a)(1)). Debtor must treat the priority tax claims of the Internal Revenue Service and the State of Michigan under Group 3 on page 20.

Accordingly,

IT IS ORDERED that no later than **April 16, 2014**, Debtor must file an amended combined plan and disclosure statement that is consistent with this Order.

IT IS FURTHER ORDERED that no later than **April 16, 2014**, Debtor also must file a redlined version of the amended combined plan and disclosure statement, showing the changes Debtor has made to the “1st Amended Combined Plan and Disclosure Statement of Weaam Nocha” (Docket # 81), filed April 3, 2014.

Signed on April 11, 2014

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge